

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rule making related to waivers, licensure, and education requirements and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 1, “Administration,” Chapter 3, “Broker License,” Chapter 4, “Salesperson License,” Chapter 5, “Licensees of Other Jurisdictions and Reciprocity,” and Chapter 16, “Prelicense Education and Continuing Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 543B.9.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House Files 2627 and 2389.

Purpose and Summary

The proposed amendments implement changes required by 2020 Iowa Acts, House Files 2389 and 2627. The proposed amendments are also a result of the rolling five-year review of administrative rules outlined in Iowa Code section 17A.7(2). These amendments include:

- Removal of the term “variance” when it is used to mean a waiver, as required by 2020 Iowa Acts, House File 2389, section 10, which amended Iowa Code section 17A.9A;
- Addition of a new rule 193E—5.12(543B) to set forth the procedures for licensure by verification for applicants who are licensed in other jurisdictions, as required by 2020 Iowa Acts, House File 2627;
- Changes in Chapters 3 and 4 regarding the use of criminal convictions in licensure decisions, as set forth in 2020 Iowa Acts, House File 2627;
- Changes regarding the terms “classroom” to “live education” and “computer-based” to “distance learning” for consistency with the definitions outlined in rule 193E—16.1(543B);
- A general cleanup of Chapters 1, 3, 4, 5, and 16.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may become eligible for licensure as a result of this rule making.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on July 23, 2021. Comments should be directed to:

Jeffrey Evans
Real Estate Commission
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Email: jeff.evans@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 23, 2021
9 to 10 a.m.

Commission Office, Suite 350
200 East Grand Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 193E—1.2(543B) as follows:

193E—1.2(543B) Correspondence and communications. Correspondence and communications with the commission shall be addressed or directed to the commission office at ~~1918 S.E. Hulsizer~~ 200 E. Grand Avenue, Suite 350, ~~Ankeny~~ Des Moines, Iowa ~~50021~~ 50309. The facsimile number is ~~(515)281-7411~~ (515)725-9032. Contact information is available from the commission's ~~Web site~~ website located at <http://www.state-ia.us/iree/plb.iowa.gov/board/real-estate-sales-brokers>.

ITEM 2. Amend rule 193E—1.4(543B) as follows:

193E—1.4(543B) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the department of commerce or the professional licensing and regulation division, the commission is the principal custodian of its own agency orders, statements of law or policy issued by the commission, legal documents, and other public documents on file with the commission.

1.4(1) No change.

1.4(2) Records, documents and other information may be gathered, stored, and available in electronic format. Information, various forms, documents, and the license law and rules may be reviewed or obtained at any time by the public from the commission's ~~Web site~~ website located at <http://www.state-ia.us/iree/plb.iowa.gov/board/real-estate-sales-brokers>.

1.4(3) and 1.4(4) No change.

ITEM 3. Amend rule 193E—1.5(543B) as follows:

193E—1.5(543B) Waiver ~~or variance~~ from rules. Persons who wish to seek waivers from commission rules should consult the uniform rules for the professional licensing and regulation division at 193—Chapter 5.

ITEM 4. Amend rule 193E—3.1(543B) as follows:

193E—3.1(543B) General requirements for broker license. An applicant for a broker license must meet all requirements of Iowa Code section 543B.15.

3.1(1) and 3.1(2) No change.

3.1(3) An applicant for a real estate broker's license who has been convicted of ~~forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, or of any crime involving moral turpitude,~~ a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C). "Conviction" is defined in Iowa Code section 543B.15(3) and rule 193E—2.1(543B).

3.1(4) No change.

3.1(5) As required by Iowa Code section 543B.15(7) and 193E—subrule 16.3(1), an applicant for licensure as a real estate broker shall complete at least ~~72 classroom~~ 60 live instruction hours of commission-approved real estate education within 24 months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense ~~course~~ courses. ~~Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.~~

3.1(6) No change.

ITEM 5. Amend rule 193E—3.2(543B) as follows:

193E—3.2(543B) License examination. Examinations for licensure as a real estate broker shall be conducted by the commission or its authorized representative.

3.2(1) No change.

3.2(2) Requests for waiver ~~or variance~~. An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for waiver ~~or variance~~ of commission rules or of the qualifications for licensure as permitted by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers ~~and variances~~, which can be found in the uniform rules for the professional licensing and regulation bureau at 193—Chapter 5. The commission will consider each case on an individual basis. The commission may require additional supporting information. If the applicant's experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

3.2(3) Evidence of completion of prelicense education required. An examinee shall be required to show evidence at the examination site that required prelicense education has been completed. If the commission has granted a waiver ~~or variance~~ of prelicense education, the letter granting the waiver ~~or variance~~ will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B) must obtain written authorization from the commission to show at the examination site.

3.2(4) and 3.2(5) No change.

ITEM 6. Amend rule 193E—4.1(543B) as follows:

193E—4.1(543B) General requirements for salesperson license. A person who is licensed under and employed by or otherwise associated with a real estate broker or firm is a “salesperson” as defined in Iowa Code section 543B.5(20) and rule 193E—2.1(543B).

4.1(1) to 4.1(6) No change.

4.1(7) An applicant for a real estate salesperson license who has been convicted of ~~forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, or of any crime involving moral turpitude,~~ a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, jurisdiction, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C). “Conviction” is defined in Iowa Code section 543B.15(3) and rule 193E—2.1(543B).

4.1(8) No change.

4.1(9) Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination shall consist of 60 ~~classroom~~ live instruction or computer-based distance learning hours of real estate principles and practices. To be eligible to take the examination, the applicant must complete the 60 ~~classroom~~ live education or computer-based distance learning hours of real estate principles and practices during the 12 months prior to taking the examination. The applicant must also provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The applicant must complete all the required prelicense education during the 12 months prior to the date of application.

ITEM 7. Amend rule 193E—4.2(543B) as follows:

193E—4.2(543B) License examination. Examinations for licensure as a real estate salesperson shall be conducted by the commission or its authorized representative.

4.2(1) No change.

4.2(2) *Requests for waiver ~~or variance~~.* An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for waiver ~~or variance~~ of the qualifications for licensure as required by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission’s rules regarding waivers ~~and variances~~, which can be found in the uniform rules for the professional licensing and regulation bureau at 193—Chapter 5. The commission will consider each case on an individual basis. The commission may require additional supporting information. If the applicant’s prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver ~~or variance~~ is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

4.2(3) *Evidence of completion of prelicense education required.* An examinee shall be required to show evidence at the examination site that 60 ~~classroom~~ live education or computer-based distance learning hours of real estate principles and practices have been completed. If the commission has granted a waiver ~~or variance~~ of prelicense education, the letter granting the waiver ~~or variance~~ will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B) must obtain written authorization from the commission to show at the examination site.

4.2(4) No change.

ITEM 8. Amend rule 193E—5.1(543B) as follows:

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all requirements of Iowa law and with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) or 193E—5.12(543B) may qualify for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) or 193E—5.12(543B) may qualify for the same type of broker or broker associate license in Iowa. The person must have met all requirements for an Iowa broker license as provided in rule 193E—3.1(543B). If the person does not meet the requirements, the person shall meet, at a minimum, the requirements for an Iowa salesperson license as provided in 193E—Chapter 4 and shall only qualify for a salesperson license.

5.1(3) No change.

ITEM 9. Amend rule 193E—5.11(543B) as follows:

193E—5.11(543B) License discipline reporting required. If a ~~nonresident~~ an Iowa licensee has a real estate license disciplined, suspended or revoked by any other state or jurisdiction, that disciplinary action will be considered prima facie evidence of violation of Iowa Code section 543B.29 or 543B.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the Iowa licensee. Failure to notify the commission within 15 days of an adverse action taken by another state or jurisdiction shall be cause for disciplinary action.

ITEM 10. Adopt the following new rule 193E—5.12(543B):

193E—5.12(543B) Licensure by verification. A person licensed in another state or jurisdiction may qualify for an Iowa salesperson or broker license through verification by making application as provided in rule 193—14.4(272C). In addition to all requirements provided by rule 193—14.4(272C), an applicant for a license through verification shall also submit to the commission proof of passing the Iowa portion of the salesperson or broker real estate examination.

5.12(1) Temporary licenses. Applicants who satisfy all requirements for a license by verification under this rule except for passing the Iowa portion of the salesperson or broker real estate examination may be issued a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months. The applicant must submit proof of passing the Iowa portion of the salesperson or broker real estate examination before the temporary license expires.

5.12(2) License terms. Once the applicant submits proof of passing the Iowa portion of the salesperson or broker real estate examination before the temporary license expires, a license will be issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term.

ITEM 11. Rescind subrule **16.3(1)**.

ITEM 12. Renumber subrules **16.3(2)** to **16.3(4)** as **16.3(1)** to **16.3(3)**.

ITEM 13. Amend renumbered subrule 16.3(1) as follows:

16.3(1) Required course of study ~~beginning January 1, 2020~~. ~~Beginning January 1, 2020, the~~ The required course of study to take the broker examination shall consist of at least 60 ~~classroom~~ live instruction hours. Approved courses shall be completed within 24 months prior to the applicant's taking the broker examination and shall include the following subjects:

Contract Law and Contract Writing	6 hours
Iowa Real Estate Trust Accounts.	6 hours
Principles of Appraising and Market Analysis.	6 hours
Real Estate Law and Agency Law	6 hours
Real Estate Finance	6 hours
Federal and State Laws Affecting Iowa Practice	6 hours
Real Estate Office Organization, Administration and Human Resources	12 hours
Real Estate Technology and Data Security.	6 hours
Ethics and Safety Issues for Brokers.	6 hours